

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2206139
Decision Date:	11/1/2022	Hearing Date:	10/19/2022
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Mother

Appearance for MassHealth:
Dr. Carl Perlmutter, DMD



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Orthodontics
Decision Date:	11/1/2022	Hearing Date:	10/19/2022
MassHealth's Rep.:	Dr. Carl Perlmutter	Appellant's Rep.:	Mother
Hearing Location:	Remote	Interpreter:	Language Line

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated July 18, 2022, MassHealth denied Appellant's request for prior authorization of comprehensive orthodontic treatment (130 CMR 420.431 and Exhibit 1). Appellant filed this appeal in a timely manner on August 16, 2022 (130 CMR 610.015; Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032). A hearing was scheduled for September 19, 2022 and was rescheduled to October 19, 2022 because an interpreter was not available for the hearing.

Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization of comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying Appellant's prior authorization request for comprehensive orthodontic services.

Summary of Evidence

MassHealth was represented at hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest, which is the MassHealth dental contractor. Dr. Perlmutter testified that he is a

licensed orthodontist with many years of clinical experience. Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment with X-rays and photographs. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 17 points (Exhibit 1, p. 12). Appellant's orthodontic provider's HLD Form also indicates a deep impinging overbite which is an autoqualifier, but excludes a medical necessity narrative (*Id.*, p. 13). Dr. Perlmutter testified that a DentaQuest reviewing orthodontist completed HLD measurements based on photographs and X-rays and arrived at a score of 17 points, and indicated no autoqualifier (*Id.*, p. 6). Dr. Perlmutter testified that he carefully reviewed and measured the photographs and X-rays and calculated a score of 16 points. Dr. Perlmutter also testified that he carefully reviewed the photographs under magnification and did not see evidence of a deep impinging overbite and no damage to the palatal tissue caused by the lower teeth. Dr. Perlmutter added that the photographs show that Appellant's lower front teeth are visible when he bites down also showing that there is no deep impinging overbite. Dr. Perlmutter stated that Appellant does have an overjet and significant crowding; however, his condition does not rise to the level of severity required by regulation for MassHealth to pay for orthodontics.

Appellant was represented by his mother who stated that she feels Appellant needs braces because his lower teeth are crooked and turning inward, and his upper teeth are pointing outward. She stated that Appellant has difficulty biting into food, and is often bullied by other children because his teeth are zigzagged.

Dr. Perlmutter testified that Appellant can submit a letter of medical necessity from a physician or psychologist that describes how his teeth are affecting him which will be considered by MassHealth is determining payment.

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment with X-rays and photographs.
2. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 17 points and indicated a deep impinging overbite.
3. Appellant's orthodontic provider's HLD Form does not include a medical necessity narrative.
4. A DentaQuest reviewing orthodontist and Dr. Perlmutter completed the HLD measurements based on photographs and X-rays and arrived at scores of 17 points and 16 points, respectively.

5. Appellant does not have a deep impinging overbite. There is no soft tissue damage to the palatal tissue, and his lower teeth are visible in photographs when biting down.

Analysis and Conclusions of Law

Regulation 130 CMR 420.431(C)(3) states in relevant part:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

Appendix D of the *Dental Manual* is the “Handicapping Labio-Lingual Deviations Form” (HLD), which is described as a quantitative, objective method for measuring malocclusion. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. MassHealth has determined that a score of 22 or higher signifies a handicapping malocclusion. Further, Appendix D of the *Dental Manual* designates for automatic approval, a deep-impinging overbite with severe soft tissue damage (e.g., ulcerations or tissue tears – more than indentations). Dr. Perlmutter, a licensed orthodontist with many years of clinical experience, testified that there is no evidence of soft tissue damage resulting from a deep impinging overbite, and Appellant’s lower teeth are visible when he bites down which is contrary to a deep impinging overbite (See Exhibit 1, p. 11). I find Dr. Perlmutter’s testimony credible and supported by the photographic evidence. Because Appellant’s provider indicated conditions that do not exist in Appellant’s mouth and measured a HLD score less than 22 points, Appellant does not meet the definition of a handicapping malocclusion at this time.

The appeal is denied.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA